IN THE HIGH COURT OF JUDIATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.6689 OF 2004

Shanta Abhaykumar Gandhi & Ors. .. Petitioners.
Vs.
Suren Bhagwant Goregaonkar & Ors. .. Respondents.

Mr.R.A.Thorat for the petitioners.
Mr.Kirit Mehta for respondent nos.1 and 2.

CORAM : D.B.BHOSALE, J.

DATED : 30TH SEPTEMBER, 2004

P.C.:

. Heard Mr.Thorat, learned counsel for the petitioners and Mr.Mehta, learned counsel for respondent nos.1 and 2.

2. Rule, returnable forthwith.

3. Mr.Mehta, learned counsel waives service for respondent nos.1 and 2. By consent of the parties taken up for final hearing.

4. This petition is directed against the order dated 26.7.2004 passed by the Small Causes Court in Interim Notice No.140 of 2004 in T.E.& R.Suit No.29/36 of 2003 by which the notice has been discharged. The interim notice was taken out by

the petitioners-defendants seeking extension of time to file written statement which had remained to be filed within time stipulated under Order 8 Rule 1 of Civil Procedure Code. The learned Judge of the Small Causes Court rejected the prayer holding that with a view to delay the hearing of the suit the petitioner wilfully avoided to file written statement.

3. I heard the learned counsel for the parties. The learned counsel for the respondent-plaintiff fairly stated that in view of the judgment of this court in **Shailaja A.Sawant Vs. Sayajirao Ganpatrao Patil 2004(2) Maharashtra Law Journal 419** he has no objection for allowing the petitioner to file written statement in the suit. The learned counsel appearing for the parties, therefore, state that I need not record reasons for allowing the petitioner to file written statement. Hence I pass the following order:

. The impugned order dated 26.7.2004 is quashed and set aside. The petitioners are allowed to file written statement within two weeks from today on payment of cost of Rs.500/-, to be paid to the Bar Association of Small Causes Court, and

comply with all the formalities that may be necessary in respect thereof. In view of the fact that one of the parties to the suit is 70 years old, the hearing of the suit is expedited. All contentions on merits of the case are left open.

. Rule is made absolute in the aforesaid terms. No costs.

. The petition is disposed of.

(D.B.Bhosale, J.)